

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

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In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹
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PROMESA

Title III

No. 17 BK 3283-LTS

Re: ECF No. 613

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO

Debtor.
-----X

PROMESA

Title III

No. 17 BK 3283-LTS

**This Response relates only to the
Commonwealth and shall only be
filed in the lead Case No. 17 BK
3283-LTS.**

**RESPONSE OF THE COMMONWEALTH TO MOTION FOR RELIEF FROM
AUTOMATIC STAY FILED BY LUIS MONTES-VALENTÍN [ECF NO. 613]**

To the Honorable United States District Court Judge Laura Taylor Swain:

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

The Commonwealth of Puerto Rico (the “Commonwealth”) respectfully submits this response (the “Response”) to the *Motion for Relief from Automatic Stay* [ECF No. 613] (the “Motion”) filed by Luis Montes-Valentín (the “Movant”).²

RESPONSE

1. After evaluating the facts of Movant’s case pending before the Puerto Rico Court of First Instance, San Juan (the “Commonwealth Court”), captioned Luis Montes-Valentin v. Municipality of San Juan, et al., Case No. KDP2015-1353 (the “Commonwealth Court Action”), which seeks, among other things, monetary compensation for alleged damages suffered in connection with a fall that occurred in the municipality of San Juan, the Commonwealth does not object to a partial modification of the automatic stay set forth in Bankruptcy Code section 362 (the “Title III Stay”), made applicable by PROMESA section 301(a), to permit the Commonwealth Court Action to proceed in order for the Commonwealth Court to make a determination on liability and, if necessary, damages. In addition to the municipality of San Juan, the Commonwealth Court Action names the following defendants: the Commonwealth, the Puerto Rico Aqueduct and Sewer Authority (“PRASA”), and the Puerto Rico Electric Power Authority (“PREPA”). Both the Commonwealth and PREPA have commenced cases under title III of PROMESA.³

2. The Commonwealth believes that the limited modification of the Title III Stay proposed herein is appropriate given the procedural state of the Commonwealth Court Action (discovery has concluded and the matter is ready for trial); provided that any judgment in the

² The Financial Oversight and Management Board for Puerto Rico, as the Debtors’ representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”), has authorized the Department of Justice to file this Objection on behalf of the Commonwealth.

³ While the Motion only seeks to lift the automatic stay with respect to the Commonwealth, as a debtor under title III of PROMESA, the automatic stay also applies to PREPA and the continuation of the Commonwealth Court Action is stayed against PREPA.

Commonwealth Court Action may not be enforced against the Commonwealth or PREPA, and may only be enforced against the municipality of San Juan and/or PRASA. Such relief will balance the harms between Movant and the Commonwealth by allowing Movant to move the Commonwealth Court Action forward without requiring the Commonwealth to expend significant time and resources defending the litigation, which would divert the Commonwealth's attention away from its restructuring efforts.

3. Nothing contained in this Response should be construed as a waiver or modification of the Title III Stay to permit the prosecution against the Commonwealth of any claim by anyone other than Movant as provided for herein, and the Commonwealth reserves all rights, defenses, and protections with respect to any other motions for relief of stay or any other matters pending in the Commonwealth's Title III case. The Commonwealth further reserves its rights with respect to any claim currently pending in the Commonwealth Court Action or hereinafter asserted by Movant. As a potential prepetition, unsecured creditor of the Commonwealth, Movant's claims are subject to the claim resolution process that will be undertaken in the Title III cases.

CONCLUSION

4. For the foregoing reasons, the Commonwealth requests that the Court grant a partial modification of the Title III Stay to allow the Commonwealth Court Action to proceed to determine liability and, if necessary, damages; provided that (i) any judgment entered by the Commonwealth Court shall not be enforced against the Commonwealth or PREPA; and (ii) the Title III Stay shall continue to apply in all other respects to the Commonwealth Court Action, including as to entry and execution of judgment and provisional remedies.

Dated: July 25, 2017
San Juan, Puerto Rico

Respectfully submitted,

WANDA VÁZQUEZ GARCED
Secretary of Justice

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